



THE ATTORNEY GENERAL  
OF TEXAS

JIM MATTOX  
ATTORNEY GENERAL

November 20, 1990

Mr. John R. Neel  
General Counsel  
State Purchasing and  
General Services Commission  
P.O. Box 13047  
Capitol Station  
Austin, Texas 78711-3047

OR90-551

Dear Mr. Neel:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 11012.

The State Purchasing and General Services Commission received an open records request for a particular piece of correspondence that verifies that a vendor on a purchase order contract is capable of performing that contract. You contend that the document comes under the protection of sections 3(a)(4) and 3(a)(10) of the Open Records Act.

You received a request for information under the Open Records Act on October 17, 1990. You requested a decision from this office on November 2, 1990. Consequently, you failed to request a decision with regard to the correspondence within the 10 days required by section 7(a) of the Act.

Section 7(a) of the act requires a governmental body to release requested information or to request a decision from the attorney general within 10 days of receiving a request for information the governmental body wishes to withhold. When a governmental body fails to request a decision within 10 days of receiving a request for information, the information at issue is presumed public. City of Houston v. Houston Chronicle Publishing Co., 673 S.W.2d 316, 323 (Tex. App. - Houston [1st Dist.] 1984, no writ); Open Records Decision No. 319 (1982). The governmental body must show a compelling interest to withhold the information to overcome this presumption. Open Records Decision No. 319; City of

Houston v. Houston Chronicle Publishing Co., 673 S.W. 2d at 324.

You have not shown compelling reasons why the information at issue should be withheld pursuant to section 3(a)(4). Although you request a review of the document in question under section 3(a)(10), the trade secret and confidential financial information exception, you have not demonstrated, nor is it apparent to this office, how this exception would apply to the requested information. The information is presumed to be public and must therefore be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR90-551.

Yours very truly,



Kay H. Guajardo  
Assistant Attorney General  
Opinion Committee

KHG/RWP/le

Ref.: ID# 11012

cc: Jerald W. Epps  
Bankston, Wright & Greenhill  
1800 Bank One Tower  
221 West 6th Street  
Austin, Texas 78701